LUC-463/Barclay 12-10-6-9-12-2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

Inventor(s):	Deborah L. Barclay et al.		
Case No.:	LUC-463/Barclay 12-10-6-9-12-2	**Examiner**	Olumide A. Akonai
Serial No.:	10/768,431	**Art Unit:**	2617
Filing Date:	1/30/2004		
Title:	DETERMINATION TO REQUEST MOBILE STATION POSITION THROUGH EMPLOYMENT OF CALL CHARACTERISTICS		

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being sent via facsimile transmission to Commissioner for Patents, Mail Stop Amendment, Group Art Unit 2617, Attention: Examiner Olumide A. Akonai, P.O. Box 1450, Alexandria, VA 22313-1450, at fax number (571) 273-8300, on August 7, 2009.

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Date of Signature: August 7, 2009

Commissioner for Patents
Mail Stop Amendment
Group Art Unit 2617
Attention: Examiner Olumide A. Akonai
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Applicants request review of the final rejection of this application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated on the attached sheets.

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REMARKS

Claims 1-20 and 22-26 are pending in the application. Claims 1-20 and 22-26 were rejected under 35 U.S.C. § 103 (a).

Rejections Under 35 U.S.C. § 103 (a)

Rejection Under O'Donnel, Kohar, Kalev, Hsu and Lipsanen

Claims 1-13, 16-20 and 23-25 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over U. S. Patent Number 6,266,514 issued to O'Donnell on July 24, 2001 in view of U. S. Patent Number 6,987,976 issued to Kohar on January 16, 2006 and U.S. Patent Number 6,308,071 issued to Kalev on October 23, 2001 and U.S. Patent Number 7,272,387 issued to Hsu et al. on September 18, 2007 and U. S. Patent Number 7,103,345 issued to Lipsanen on September 6, 2006.

Applicants respectfully traverse this ground of rejection for the following reasons. First, applicants' claim 1 recites,

> "a network component that employs a) one or more call characteristics to make a determination to initiate a request to a switch component for one or more positions of one or more mobile stations and b) one or more call parameters to identify one or more cellular network cells associated with the one or more mobile stations, wherein at least one of the one or more call parameters employed to identify one of the one or more cellular network cells is a telephony number of at least one of the one or more mobile stations; and
>
> wherein the network component receives, in response to the request, the one or more positions of the one or more mobile stations from a position component that determines the one or more positions of the one or more mobile stations continuously; and
>
> wherein the switch component assigns a channel to the at least one of the one or more mobile stations for a call upon a comparison of a calling party number with the at least one of the one or more call parameters."

As stated in the Final Office Action, the Examiner agrees that O'Donnell does **not** specifically disclose "wherein the network component receives, in response to the request, the one or more positions of the one or more mobile stations from a position component that determines the one or more positions of the one or more mobile

stations continuously". The Examiner proposes to combine Kohar with O'Donnell to achieve this limitation. However, applicants assert that the proposed combination of O'Donnell and Kohar does **not** reflect the specific limitations recited in applicants' claim 1 since the resultant system would **not** be a properly functioning system.

Specifically, the Examiner proposes to use **two different** types of position components that function differently in order to achieve applicants' claim 1. In particular, the Examiner proposes to use 1) O'Donnell's positioning function 8 and 2) Kohar's position determining means 8. However, there is no way to combine these two devices so as to form applicants' recited **"a position component"** because O'Donnell requires the BSC to invoke the positioning function 8 when a quality measure falls below or above a specified threshold to request the identity and geographic location of a mobile's position, as stated in column 6, lines 20-28.

By contrast, Kohar's position determining means 8 does **not** require a request from a BSC to determine a mobile's position. Also, Kohar's position determining means 8 does **not** limit requests for a mobile's position based on a quality measure or threshold. Kohar's position determining means 8 determines a mobile's position continuously or upon request of a second mobile terminal, as stated in column 3, lines 25-27. In effect, Kohar determines a mobile's position without a request from a network component rather than based on a request from a network component, i.e., a BSC, as required by O'Donnell. Since Kohar's position determining means 8 functions in a manner differently than O'Donnell's positioning function 8 and the resultant system would **not** be a properly functioning system, the proposed combination is improper.

Second, the Examiner proposes to combine Lipsanen with O'Donnell as modified by Kohar, Kalev and Hsu. However, applicants assert that the proposed combination of O'Donnell as modified by Kohar, Kalev and Hsu with Lipsanen does **not** reflect the specific limitations recited in applicants' claim 1 since the resultant system would **not** be a properly functioning system. Specifically, the Final Office Action states that Kalev teaches a network component, i.e., base station controller 4, that employs one or more call parameters, i.e., location area code and cell identity, to identify one or more cellular network cells associated with the one or more mobile stations. Also, the Final Office Action states that Hsu discloses the use of **a telephony number, i.e., the MSISDN of a**

mobile station, as a specific call parameter, i.e., "at least one of the one or more call parameters", to identify one or more cellular network cells associated with the one or more mobile stations.

By contrast, Lipsanen does **not** teach the use of a telephony number, i.e., the MSISDN of a mobile station, as a specific call parameter as done in Hsu. Instead, the Examiner asserts "assigning a channel communication for a call between mobile terminal 4 and a fixed telephone 5, wherein the MSC searches a database to verify the A-number before assigning a channel for communication between the mobile telephone 4 and fixed telephone 5" as a specific call parameter. However, the system resulting from the proposed combination of O'Donnell as modified by Kohar, Kalev and Hsu with Lipsanen would **not** be a properly functioning system, because "assigning a channel communication for a call between mobile terminal 4 and a fixed telephone 5, wherein the MSC searches a database to verify the A-number before assigning a channel for communication between the mobile telephone 4 and fixed telephone 5" as done in Lipsanen can**not** be used as a call parameter to "identify one or more cellular network cells associated with the one or more mobile stations" as done in Hsu. Thus, the proposed combination of Lipsanen with O'Donnell as modified by O'Donnell, Kalev and Hsu is improper.

Therefore the proposed combination of O'Donnell as modified by Kohar, Kalev, Hsu and Lipsanen does **not** teach or suggest all of the limitations in applicants' claim 1, and therefore claim 1 is allowable over the proposed combination. Since claims 2-13, 16-17 and 22-26 depend from allowable claim 1, these claims are also allowable.

Independent claim 18 has limitations similar to that of independent claim 1, which was shown is not taught by the proposed combination. For example, claim 18 recites, "determining the one or more positions of the one or more mobile stations continuously" and "wherein a switch component assigns a channel to the at least one of the one or more mobile stations for a call upon a comparison of a calling party number with the at least one of the one or more call parameters". The proposed combination does not teach or suggest these limitations for the above-mentioned reasons. Therefore, claim 18 is likewise allowable over the proposed combination. Since claims 19-20 depend from claim 18, these dependent claims are also allowable.

Rejections Under O'Donnell, Kohar, Kalev, Hsu, Lipsanen, Jeong and Alperovich

Claims 14-15, 22 and 26 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over O'Donnell in view of Kohar, Kalev, Hsu, and Lipsanen, and further in view of various references.

Applicants respectfully traverse these grounds of rejection.

These rejections are based on the rejection under O'Donnell, Kohar, Kalev, Hsu and Lipsanen being proper. As that ground of rejection has been overcome, and none of the cited references teach or suggest "determining the one or more positions of the one or more mobile stations continuously" and "wherein a switch component assigns a channel to the at least one of the one or more mobile stations for a call upon a comparison of a calling party number with the at least one of the one or more call parameters", as recited in applicants' independent claims 1 and 18, the proposed combinations of O'Donnell, Kohar, Kalev, Hsu, Lipsanen, Jeong, Alperovich and Powers does **not** supply this missing element. Thus, these combinations do **not** make obvious any of applicants' claims, all of which require the aforesaid limitation.

Conclusion

In view of the above remarks, withdrawal of the rejections and/or reversal of the rejections of all claims pending is respectfully requested.

If a telephone conference would be of assistance in advancing the prosecution of this application, feel free to call applicants' attorney.

Respectfully submitted,

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